



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

BCC/142792

PRELIMINARY RECITALS

Pursuant to a petition filed August 01, 2012, under Wis. Stat. § 49.45(5)(a), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on September 12, 2012, at Waukesha, Wisconsin.

The issues for determination are whether the agency has correctly determined Petitioner's BadgerCare+ Core eligibility and established a premium for that Medicaid coverage.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Aina Bromberek

Waukesha County Health and Human Services
500 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. Petitioner filed this appeal to contest the fact that she cannot work to earn more than approximately \$107.00 per month and still receive BadgerCare+ Core benefits and further

because a premium has been imposed on some BadgerCare+ Core recipients, including Petitioner.

3. Petitioner receives \$1753.82 in maintenance per month. She was working but left employment so as to keep income under BadgerCare+ income limits.
4. As of July 1, 2012 a premium of \$95 has been required of Petitioner for BadgerCare+ Core eligibility.

DISCUSSION

In order to qualify for BadgerCare+ Core benefits, a person in a group size of 1-2 cannot have gross income that exceeds 200% of the federal poverty level (FPL). *BadgerCare Eligibility Handbook (BEH)*, §3.7.2. 200% of the federal poverty level for one is \$1861.67. *BEH*, §50.1. There are no income deductions for the Core program. *BEH*, §43.7.2.

Additionally, as of July 1, 2012, state law has changed and now requires that a premium be paid for BadgerCare+ Core eligibility if gross income exceeds 133% of the federal poverty level. *BEH*, §43.7.3.1. There is a sliding scale used to determine the amount of the premium. For a household of one with an income of \$1753.00 the premium is 5.4% or, in this case, \$95.00. *BEH*, §48.11.2.

Petitioner does not believe that any of this is fair. Nonetheless, this is the law governing the program and the Division of Hearings and Appeals does not have authority to ignore or change the law. *See Wis. Stats. § 49.471 and, as to premiums, 2011-13 Wisconsin State Budget, Act 32.*

CONCLUSIONS OF LAW

1. That the income eligibility limit for the BadgerCare+ Core program for one person is \$1861.61.
2. That the BadgerCare+ Core program correctly determined that Petitioner must pay a premium of \$95 for BadgerCare+ Core eligibility.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

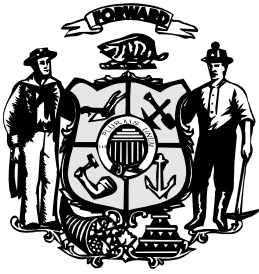
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 15th day of October, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Division of Health Care Access and Accountability, DHSDHADHCAA@Wisconsin.gov -
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The preceding decision was sent to the following parties on October 15, 2012.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability